

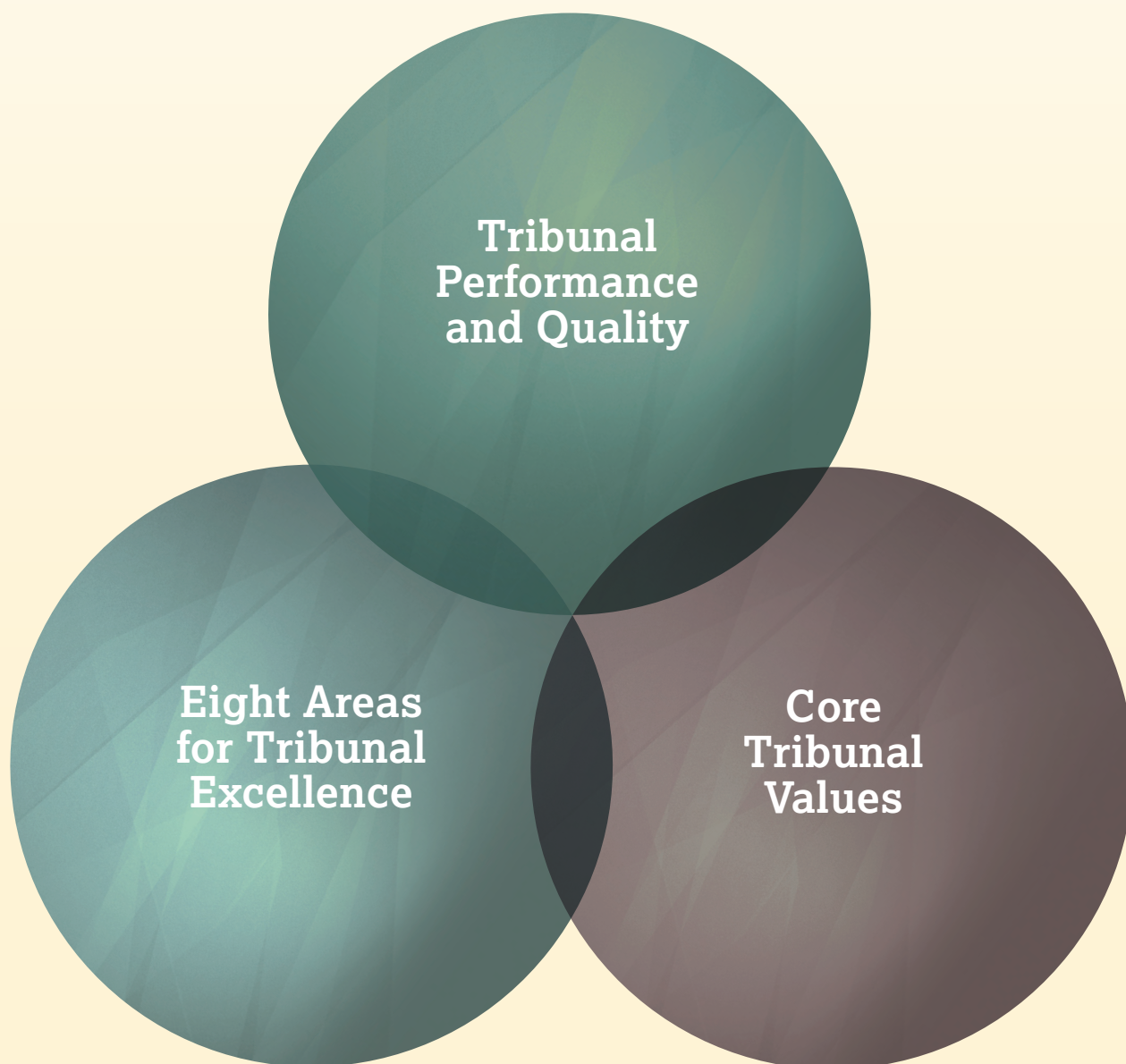
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# INTERNATIONAL FRAMEWORK FOR **TRIBUNAL EXCELLENCE**

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APRIL 2014

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## Comment

The *Framework* is a living document.

Your feedback is valued and will be taken into account in future reviews of the *Framework*.

If you have any comments on the *Framework* please email [chambers.ross.j@fwc.gov.au](mailto:chambers.ross.j@fwc.gov.au)

# A. Introduction

Tribunals play a fundamental role in the day to day lives of citizens, businesses and government. The structure, jurisdiction, workload and funding mechanisms of tribunals vary widely.

Tribunals are an important part of the justice system in many countries. They provide a quick, cheap and relatively informal means of dispute resolution.

Tribunals adjudicate a range of different types of disputes, including:

- **civil disputes:** eg. between consumers and traders, tenants and landlords;
- **human rights:** eg. discrimination, mental health and guardianship; and
- **administrative law (the citizen and the State):** eg. licensing and regulatory disputes, professional discipline, planning and the environment and freedom of information.

Excellent tribunals resolve disputes and decide cases in a fair, accessible and efficient manner within a reasonable timeframe. They interpret the law consistently, impartially and independently, to protect the rights of the community the tribunal serves.

The first task for an institution aspiring to be excellent is to define the concept of excellence to which it aspires.

For tribunals, the *International Framework for Tribunal Excellence (the Framework)* performs this function.

The *Framework* will assist tribunals to deliver the quality services essential to fulfil their critical role in society.

The *Framework* is a resource for assessing a tribunal's performance against eight areas of tribunal excellence and it provides a model methodology for continuous evaluation and improving performance.

The *Framework* draws on the work of the International Consortium which developed the "International Framework for Court Excellence" ([www.courtexcellence.com](http://www.courtexcellence.com)), but has been substantially modified to reflect the particular needs of tribunals.

The *Framework* draws on the core values inherent in tribunals and provides a transparent and accessible assessment questionnaire based on a series of indicia of excellence under eight key areas of Tribunal Excellence. These scores are then weighted to give an overall assessment.

“It should never be forgotten that tribunals exist for users, and not the other way round. No matter how good tribunals may be, they do not fulfil their function unless they are accessible by the people who want to use them, and unless the users receive the help they need to prepare and present their cases.” Sir Andrew Leggatt, 2001

There is broad agreement regarding the core values that tribunals apply in carrying out their roles. The most important values to the successful functioning of tribunals are:



Equality before the law
Fairness
Impartiality
Independence
Respect for the Law
Accessibility
Competence
Integrity
Accountability
Efficiency

These core values guarantee due process and equal protection of the law to all those who have proceedings before tribunals. They provide a frame of reference for the assessment of tribunal excellence.

Values such as fairness and impartiality set the standards for the conduct of tribunal cases.

The values of independence, respect for the law and competence are primarily related to the ability of a tribunal's members to make decisions based solely on the application of the relevant law to the facts of the case. Integrity includes the transparency and propriety of the process; the decision; and the decision maker. Justice must not only be done but seen to be done.

Accessibility incorporates the ease of gaining entry to the legal process (including, for example, reasonable filing fees and access to an interpreter), and obtaining accurate, complete information about the tribunal process.

Efficiency incorporates timeliness and proportionate transaction costs. Proportionality is about ensuring that legal costs and other costs incurred in connection with a proceeding are reasonable and proportionate to the complexity and importance of the issues in dispute and the sum at stake. Timeliness reflects a balance between the time required to properly obtain, present and weigh the evidence, law and arguments, and unreasonable delay due to inefficient processes and insufficient resources.

Shared values, such as fairness, impartiality, independence, transparency, efficiency and competence, endorsed by tribunal members and staff become the dominant organisational culture of a tribunal.

These shared values are embedded in the eight individual areas of measurement specified in *A Framework for Tribunal Excellence*. One of the most important tasks for the leader of a tribunal is the promotion of shared values. It is the responsibility of the presiding member of the tribunal to encourage an understanding of, and adherence to, common values, such as independence, fairness, integrity and efficiency.

## B. International Framework for Tribunal Excellence

Delivering justice is not simply about predictable, just decisions. The parties who appear before tribunals, and the community generally, have a legitimate interest in procedural justice and in the delivery of a fair and efficient dispute resolution service.

### About tribunal excellence

Tribunal excellence has three broad dimensions:

- predictable, just decisions;
- procedural justice; and
- the delivery of a fair and efficient dispute resolution service.

These three dimensions of tribunal excellence are reflected in the *Framework*.

Predictability is about certainty. Different tribunal members faced with the same facts should, broadly speaking, reach the same outcome. Of course tribunal decisions often involve the exercise of a discretion and on the same facts different tribunal members may legitimately reach different conclusions. But such discretions must be exercised judicially and within acceptable parameters.

A 'just decision' is one based solely on the application of the relevant law to the facts of the case.

Procedural justice includes, but is not limited to, the legal concept of procedural fairness. It also embraces a judgment about whether a tribunal process is fair in a more abstract sense. In a review of the literature about the factors driving public and participant satisfaction with courts and tribunals Moorhead, Sefton and Scanlan (2008) concluded:

"... the weight of the evidence suggests that it is participant judgments about the fairness of the process not the outcomes that participants receive which are most important in influencing the levels of their satisfaction... the suggestion that satisfaction is simply dependent upon outcome, driven solely by the self interest of each participant, and somehow an anathema to justice, is challenged by the evidence. Even losing parties may gain

some satisfaction from a process which is palpably just.”

In the Moorhead, Sefton and Scanlan study “participants” included witnesses, parties and their representatives. In this document “participants” and “users” are used interchangeably.

To a significant extent tribunals, like other justice institutions, are dependent upon community support for their legitimacy.

Satisfaction with the process of justice has been found to have a measurable effect on society as a whole. Such satisfaction contributes to the perceived legitimacy of the justice system and there is some evidence that it affects the behaviour of citizens, increasing their respect for the law.

Measures of public and participant satisfaction are a close proxy for the value of procedural justice.

Participant and public perceptions about the fairness of process (ie. about procedural justice) depend on a complex mix of factors. Moorhead, Sefton and Scanlan (2008) found that five process oriented factors contributed to the perception of fairness, and hence satisfaction:

1. The expectations of, and information provided to, participants.
2. The quality of participation granted to participants (ie. the extent to which, and the process through which, participants are able to get their story out in a way they view as accurate and fair).
3. The quality of treatment and, in particular, the respect shown to the participant during their time at the tribunal.
4. Issues of convenience and comfort – including timeliness and efficiency.
5. Judgments about tribunal members and staff – whether they were perceived as helpful and empathetic.

“... the suggestion that satisfaction is simply dependent upon outcome, driven solely by the self interest of each participant, and somehow an anathema to justice, is challenged by the evidence. Even losing parties may gain some satisfaction from a process which is palpably just.” Moorhead, Sefton and Scanlan

Delivering justice is not simply about predictable, just decisions. The parties who appear before tribunals and the community generally have a legitimate interest in procedural justice.

In addition to the delivery of predictable, just decisions and procedural justice, tribunals have an obligation to provide a fair and efficient dispute resolution service. The service should be fair, in that it should provide access to a fair hearing.

The service should also be efficient in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way. The costs incurred by the parties and the tribunal resources allocated to a proceeding must be reasonable and proportionate to the complexity and importance of the issues and amount in dispute.

The *Framework* is a resource for assessing a tribunal’s performance against eight areas of tribunal performance and provides guidance for tribunals intent on improving their performance.

The *Framework* provides a methodology for continuous evaluation and improvement that is specifically designed for use by tribunals.

The *Framework* is predicated on Core Tribunal Values set out in Part B of this document. These shared values are embedded into the eight individual areas of measurement specified in the *Framework*.

The *Framework* takes a whole of tribunal approach to achieving tribunal excellence rather than simply relying on a limited range of performance measures which only capture aspects of tribunal activity.



1. Independence
2. Leadership and Effective Management
3. Fair treatment
4. Accessibility
5. Professionalism and Integrity
6. Accountability
7. Efficiency
8. Client Needs and Satisfaction



# C. Measuring excellence

A series of indicia are identified within each of the Eight Areas of Tribunal Excellence. These indicia are put in the form of questions. Assessors are asked to answer the question based on a **0-5 point scale** depending on the extent to which the measure has been implemented. For example one of the questions put in relation to Accessibility is:

Accessibility measures	Rating					Score	
Does the tribunal publish user guides in its main areas of jurisdiction?	0	1	2	3	4	5	3
	No or Don't know		Partially		Yes		

Some of the indicia are put in the form of **yes/no** propositions. For example one of the questions put in relation to Independence is:

Independence measures	Rating		Score
Is the tribunal established by statute?	0	5	5
	No	Yes	

In addition to the individual measures, the **overall perception** in respect of each of the Eight Areas of Tribunal Excellence is measured on a scale from 0 to 10. An example:

Professionalism and integrity measures	Rating	Score
How do you rate the tribunal's overall professionalism and integrity?	<div><div>012345678910</div><div>Very poor —————&gt; Excellent</div></div>	7

Where a tribunal fits on the 0 to 10 scale depends on a consideration of all of the indicia within that area of excellence. The following table provides a guide for scoring overall perception:

0	<b>None:</b>	There is no activity in this area or the results show no improvement trends and have not met targets.
2	<b>Limited:</b>	Poor results; or poor performance and/or little improvement trends in indicators; or results not reported for most key indicators.
4	<b>Fair:</b>	Good performance and/or improvement trends in some key indicators; or early stages; or obtaining comparative information; or results reported for some key indicators.
6	<b>Good:</b>	Performance levels are good to excellent in most key indicators and/or improvement trends are sustained in most areas; or there are favourable comparisons and/or benchmarks in most areas; or results are reported for all key indicators.
8	<b>Very good:</b>	Current performance levels are good to excellent in most key indicators and / or improvement trends are sustained in most areas; or there are favourable comparisons or benchmarks in most areas; or results are reported for all key indicators.
10	<b>Excellent:</b>	Performance levels are excellent in most key indicators and/or there are exceptional improvement trends in most areas; or there are exceptional comparisons and benchmarks in most areas; results are reported for all indicators.

# The Eight Areas for Tribunal Excellence

## 1. Independence

Independence is about the degree of separation from the Executive. A tribunal's degree of independence will influence public perception about the extent of the tribunal's impartiality. This is particularly important in tribunals which deal with disputes involving the citizen and the State.

Impartiality is essential for the delivery of predictable, just decisions and the acceptance of those decisions by the public. For a more detailed consideration of tribunal independence see - no link available

### Independence measures

### Rating

1. Is the tribunal established by statute?	0	5				
	No	Yes				
2. Funding—budget allocation and control	0	1	2	3	4	5
	Weak		Intermediate		Stronger	
<p><b>Weak:</b> the tribunal is funded from the budget of the portfolio department, which determines budget priorities, controls expenditures and can reallocate the tribunal's budget to other program areas.</p> <p><b>Intermediate:</b> the tribunal is funded from an appropriation for a courts and tribunals service, jointly managed by the heads of the jurisdiction.</p> <p><b>Stronger:</b> the tribunal is an independent body with its own parliamentary appropriation and is responsible for its own budget and expenditure.</p>						
3. Resources—facilities and services	0	1	2	3	4	5
	Weak		Intermediate		Stronger	
<p><b>Weak:</b> the tribunal occupies or sits in premises shared with or provided by the host agency whose decisions it reviews, and relies upon the host agency to provide facilities and services.</p> <p><b>Intermediate:</b> the department provides accommodation, facilities management, security, IT, corporate, personnel management and other services on terms agreed between the President and the head.</p> <p><b>Stronger:</b> the tribunal controls its premises and in any given year has secure and sufficient funds to ensure provision of resources, facilities and services it needs to perform its functions.</p>						

## Independence measures (cont'd)

## Rating

4. Management—President and Staff	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<p><b>Weak:</b> the President may have limited powers or time, and is dependent on the department or host agency to manage tribunal caseload, business and administration. The Act is silent as to the provisions for staff of the tribunal.</p> <p><b>Intermediate:</b> the President has the responsibility to manage caseload and tribunal administration but is unable to delegate management and administrative functions due to lack of senior or full time members. The department must provide registry facilities for the tribunal and any staff that may be necessary; and the officers act under the general direction of the head.</p> <p><b>Stronger:</b> the President has statutory powers to manage and direct the tribunal's case management system, constitution of panels and chairs and general administration, and can delegate functions to the Registrar or other members. The tribunal is a statutory agency for purposes of managing its staff. Assistant Registrars and staff appointed by the Minister or department have the powers, functions and duties given by the Act or by the President.</p>						
5. Process for appointment	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<p><b>Weak:</b> Minister appointments. Apart from statutory qualifications, criteria are ad hoc, implicit, opaque. The assessment process and panel is managed by the department. A member of the Minister's office may be on the panel. The President is consulted about the tribunal's needs.</p> <p>Candidates' suitability is not assessed relative to others or is not assessed against explicit criteria or is not based on best evidence.</p> <p>Recommendations are made through the department.</p> <p>Consultations are determined by cabinet procedures.</p> <p>No explanation is required</p> <p><b>Intermediate:</b> Governor (General) in Council on nomination of portfolio minister.</p> <p>Applicants address the statutory qualifications and general criteria.</p> <p>The department oversees the assessment process, constitutes the panel in consultation with the President and ensures compliance with government policies.</p> <p>A panel assesses each applicant's relative suitability based on general criteria agreed by the committee.</p> <p>President comments on the panel's recommendations.</p> <p>Minister must consult another Minister or office on nominations.</p> <p>Minister may be required to justify the appointment process to Cabinet.</p> <p><b>Stronger:</b> Governor (General) in Council on nomination of Justice minister.</p> <p>Competency-based assessment criteria are provided for applicants to address.</p> <p>The President oversees the assessment process, constitutes the assessment panel and ensures the process complies with procedures required by the Minister.</p> <p>A panel assesses each applicant's relative suitability against competency-based criteria and evidence.</p> <p>President recommends suitable candidates or shortlist to Minister based on panel's assessment.</p> <p>Minister must consult President about proposed nominations.</p>						

## Independence measures (cont'd)

## Rating

6. Reappointment process	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<p><b>Weak:</b> incumbents can apply for new term in competition with external applicants and are assessed under the same process and criteria. There are no procedures specifying timelines for notification. Notification may be before or even after expiry of the term.</p> <p><b>Intermediate:</b> the President has the responsibility to manage caseload and tribunal administration but is unable to delegate management and administrative functions due to lack of senior or full time members. The department must provide registry facilities for the tribunal and any staff that may be necessary; and the officers act under the general direction of the head.</p> <p><b>Stronger:</b> the President has statutory powers to manage and direct the tribunal's case management system, constitution of panels and chairs and general administration, and can delegate functions to the Registrar or other members. The tribunal is a statutory agency for purposes of managing its staff. Assistant Registrars and staff appointed by the Minister or department have the powers, functions and duties given by the Act or by the President.</p>						
7. Temporary or acting appointment	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<p><b>Weak:</b> Acting and temporary appointments are not subject to any time limit on duration.</p> <p><b>Intermediate:</b> An acting or temporary appointments is limited to 12 months.</p> <p><b>Stronger:</b> Acting appointments are limited to 6 months if made by Governor, or 3 months if made by a Minister; and consecutive acting appointments cannot exceed the time limits in total.</p>						
8. Appointment of the Registrar or CEO	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<p><b>Weak:</b> Appointed and employed by the portfolio department.</p> <p><b>Intermediate:</b> Appointed by the Minister.</p> <p><b>Stronger:</b> Appointed by the Governor on the nomination of the President.</p>						
9. Tenure—term and conditions	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<p><b>Weak:</b> Appointments are for less than 2 years. A member is entitled to such remuneration as the Minister or the Governor determines from time to time in respect of the member. Rate reviews are infrequent, unprincipled and opaque. A member holds office on such terms and conditions as are provided for by the Act or otherwise as determined by the Minister in writing.</p> <p><b>Intermediate:</b> Rates are determined by the Governor or Minister for classes of member and specified in the instrument of appointment. Rates may be increased during the term. A member holds office on the conditions stated in the Act and any conditions (not inconsistent with the Act) as decided by the Governor or by the minister and stated in the instrument of appointment.</p> <p><b>Stronger:</b> Rates for classes of member are determined and published by a statutory tribunal, reviewed at regular intervals, and cannot be reduced during term. A member holds office on the conditions stated in the Act.</p>						

## Independence measures (cont'd)

## Rating

10. Tenure—removal provisions	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<b>Weak:</b>	The Minister may remove a member from office at any time, without any express statutory requirements as to the grounds or the process. Vague grounds, eg, carelessness, incompetence, inefficiency, failure or incapacity to carry out duties satisfactorily; breach of code or performance agreement. Governor or Minister may suspend a member on same grounds as for removal. There is no time limit on suspension and no provision for a process following suspension.					
<b>Intermediate:</b>	The Governor or the Minister may remove member, if satisfied that grounds exist, without any express statutory requirements as to the process. Broader grounds eg, neglect of duty, or misconduct proved to the satisfaction of the Governor. Governor may remove member of Minister's recommendation, or President may suspend a member, if grounds of removal may exist, and must initiate processes of investigation, report, hearing, leading either to removal process or the lifting of the suspension.					
<b>Stronger:</b>	Governor may remove member only on an address from both Houses of Parliament OR Governor may remove on Minister's recommendations after process of suspension, investigation, report, natural justice and consultation with President. Proved misbehaviour or incapacity (same as for judiciary).					

11. Immunities and protections	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<b>Weak:</b>	No statutory immunity for members. Immunity depends on common law.					
<b>Intermediate:</b>	A member is not personally liable for acts or omissions done in good faith in the intended performance of tribunal functions; and cannot be compelled to testify or produce documents relating to tribunal proceedings except in the circumstances specified in the Act.					
<b>Stronger:</b>	A member has the same protection and immunity as a Supreme Court judge has in performance of a judge's functions.					

12. Efficacy of power—Ministerial policy directions and Executive over-ruling of the tribunal	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<b>Weak:</b>	The Minister can give a written direction that is binding upon the tribunal provided that it is lawful. Statute allows the minister or agency to revoke or terminate a decision or order of the tribunal, or to alter its operation or effect.					
<b>Intermediate:</b>	The tribunal must apply a lawful statement of policy that has been certified by the Minister. No executive body or minister is given power to revoke, overrule or alter a decision made or affirmed by the tribunal.					
<b>Stronger:</b>	The tribunal is free to apply or depart from government policy when reviewing a decision in accordance with the common law. The statute expressly states that no minister or executive official or body can overrule or alter a decision of the tribunal in respect of a matter.					

13. Overall percentage of Tribunal Independence	0	1	2	3	4	5	6	7	8	9	10
	Weak → Stronger										

## 2. Tribunal Leadership and Effective Management

Strong leadership requires the creation of a highly professional management group, the anticipation of changes in society (which can lead to changes in demand within a tribunal), as well as a focus on innovation and continuous improvement.

In most countries the head of tribunals are judges or experienced tribunal members with a high level of decision making expertise. This does not automatically guarantee that they are also the best tribunal managers.

Excellent tribunals also encourage and support non-member tribunal administrators and the tribunal members in leadership roles to take part in courses to improve their management skills.

Innovation and flexibility are important because of constant societal change: for example, an ageing population may lead to an increase in guardianship applications and the economic cycle may affect demand in tenancy and consumer claims jurisdictions. Excellent tribunal leaders recognise change early. They actively involve staff and members in identifying challenges and solutions. They modify work processes and organisational structures and implement innovative solutions that lead to improved performance results.

Other measures of strong leadership include the 'openness' of the organisation and accountability. This means that tribunals should regularly publish their performance results and provide information on the quality of their service delivery to the public.

Excellent tribunal leadership and management implies the promotion of the external orientation of tribunals, a proactive and professional management culture, accountability and openness, an eye for innovation and a proactive response to changes in society.

Excellent tribunals use a system of policies and plans to realise the objectives that have been formulated in terms of tribunal performance and quality.

Based on empirical data, excellent tribunals actively use tribunal policies to improve services. Policies may focus on strengthening specific values or the realisation of well-defined goals. For example, in civil proceedings, a policy can encourage tribunal members to take an active role in utilising and enforcing standards for submitting documents or new evidence.

The best tribunals formulate, implement and continuously evaluate clear policies and strategies for achieving performance objectives which they have set at an earlier stage.

Tribunal policies by themselves do not guarantee excellence in tribunal performance. What is important is how effective those policies are in meeting the tribunal's core values and the needs of tribunal users and the community.

Factors used to evaluate the tribunal's results include the:

- current performance levels, relative to targets set
- performance levels relative to appropriate comparisons and/or benchmarks
- rate, breadth and importance of performance improvements
- linkages of results to key performance requirements identified in the tribunal's strategic plan

These factors should be taken into account in assessing the overall perception of the tribunal's leadership and management.

Even successful institutions have a tendency to decline unless they continue to innovate.

### Leadership measures

### Rating

14. Has a vision for the tribunal been developed and translated into concrete, measurable objectives and priorities?	0	1	2	3	4	5					
	No		Partially			Yes					
15. Does the tribunal manage change, proactively and efficiently, to adapt to meet future demands?	0	1	2	3	4	5					
	Never		Sometimes			Always					
16. Is wide publicity given to the vision among stakeholders and the community?	0	1	2	3	4	5					
	No		Partially			Yes					
17. Is there a defined leadership group within the tribunal which meets on a regular basis?	0	1	2	3	4	5					
	No		Partially			Yes					
18. Does the leadership group promote a culture that stimulates and inspires innovation and continuous improvement?	0	1	2	3	4	5					
	Never		Sometimes			Always					
19. Does the tribunal regularly publish its performance results and provide information on its service delivery to the public?	0	1	2	3	4	5					
	Never		Sometimes			Always					
20. Overall perception of tribunal leadership and management	0	1	2	3	4	5	6	7	8	9	10
	Very poor —————▶ Excellent										

The provision of a fair hearing is at the very heart of a tribunal's obligations to the parties who appear before it. An important element of the obligation to provide a fair hearing is the duty to provide assistance to parties and, in particular, self-represented parties.

### 3. Fair Treatment

The provision of a fair hearing is at the very heart of a tribunal's obligations to the parties who appear before it.

A fair hearing involves the opportunity to put your case – the right to be heard – and have the case determined impartially and according to law. It involves identifying the difficulties experienced by any party, whether due to lack of representation, unfamiliarity with the law, language, culture, disability or any other cause, and finding ways to help them through the tribunal process.

An important element of the obligation to provide a fair hearing is the duty to provide assistance to parties and in particular self-represented parties (sometimes called litigants in person). Members should identify the difficulties experienced by any party whether due to the law, language, culture, disability or any other cause, and find ways to help them through the tribunal process.

A report prepared by the Australian Institute of Judicial

Administration to assist courts and tribunals in managing litigants in person makes the following observation about the disadvantage encountered by litigants in person that comes from a lack of objectivity:

“The problem of self representation is not just a lack of legal skills – it is also a problem of a lack of objectivity and emotional distance from their case. Litigants in person are not in a good position to assess the merits of their claim...”

A tribunal has an obligation to assist a litigant in person to overcome these disadvantages, to the extent necessary to ensure a fair hearing.<sup>1</sup>

1. Australian Institute of Judicial Administration, *Litigants in Person Management Plans: Issues for Courts and Tribunals*.



**Fair treatment measures****Rating**

21. Does the tribunal promote the obligation to provide a fair hearing?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	Never		Sometimes			Always					
22. Does the tribunal provide a free interpreter service in all community languages?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	Never		Sometimes			Always					
23. Does the tribunal promote cultural competency to tribunal members and staff?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	Never		Sometimes			Always					
24. Are tribunal proceedings (in principle) open to the public?	<b>0</b>	<b>5</b>									
	No	Yes									
25. Are all hearings recorded?	<b>0</b>	<b>5</b>									
	No	Yes									
26. Are parties (and the public) able to obtain copies of recorded hearings (or transcripts) at a reasonable cost?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	Never		Sometimes			Always					
27. Are tribunal decisions subject to a fair and efficient appeal mechanism?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	No		Partially			Yes					
<b>28. How do you rate the tribunal's overall capacity to deliver fair treatment?</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
	Very poor —————> Excellent										

While a degree of structure and formality is required in all hearings we should repeatedly ask ourselves whether the needs of the tribunal are taking priority over the needs of the people who appear before it.

#### 4. Accessibility

Access to justice is a fundamental human right. Tribunals have an obligation to provide the community they serve with access to a fair hearing.

While a degree of structure and formality is required in all hearings we should repeatedly ask ourselves whether the needs of the tribunal are taking priority over the needs of the people who appear before it.

Tribunal fees, forms and processes have an important impact on access to justice as does the extent of information and assistance provided to parties.

The place and time at which a tribunal sits to hear disputes also directly impacts on access to justice. Those living in regional and remote locations should have the same level of access to the tribunal as those who live in metropolitan areas.

The Australian Institute of Judicial Administration report

“Courts and the Public” recommended:

“All [courts] should have a litigants in person plan that deals with every stage in the process, from filing through to enforcement, or the equivalent in criminal matters. This is recommended so that systematic attention is given to the issues. As part of the litigants in person plan guidelines should be prepared by judicial officers so that best practice is identified and shared between them as to how to conduct a hearing where one or more of the parties are unrepresented.”<sup>2</sup>

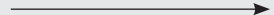
This observation applies with equal force to tribunals.

2. Stephen Parker, *Courts and the Public* (Australian Institute of Judicial Administration 1998).

**Accessibility measures****Rating**

29. Does the tribunal have a litigant in person management plan?	<b>0</b> No	<b>5</b> Yes				
30. Are the tribunal's fees affordable and proportionate to the nature of the proceeding?	<b>0</b> Never	<b>1</b>	<b>2</b>	<b>3</b> Sometimes	<b>4</b>	<b>5</b> Always
31. Does the tribunal offer fee relief/waiver based on financial circumstances?	<b>0</b> No	<b>5</b> Yes				
32. Is there an on-line lodgement facility for tribunal applications?	<b>0</b> No	<b>1</b>	<b>2</b>	<b>3</b> Partially	<b>4</b>	<b>5</b> Yes
33. Does the tribunal provide access to telephone and videoconferencing facilities to save parties travel time and costs?	<b>0</b> No	<b>5</b> Yes				
34. Does the tribunal publish user guides in its main areas of jurisdiction?	<b>0</b> Never	<b>1</b>	<b>2</b>	<b>3</b> Sometimes	<b>4</b>	<b>5</b> Always
35. Does the tribunal have a functional and easy to access website?	<b>0</b> No	<b>5</b> Yes				
36. Is there access to pro-bono legal services and are parties made aware of these services?	<b>0</b> Never	<b>1</b>	<b>2</b>	<b>3</b> Sometimes	<b>4</b>	<b>5</b> Always
37. Are tribunal staff trained to explain tribunal processes and other practical information to tribunal visitors and users?	<b>0</b> No	<b>5</b> Yes				
38. Does the tribunal have an information desk or reception staff to assist visitors?	<b>0</b> No	<b>5</b> Yes				
39. Is there a provision to hold hearings in other locations away from the main location of the tribunal to reduce party travel time and transaction costs?	<b>0</b> No	<b>5</b> Yes				

**Accessibility measures (cont'd)****Rating**

40. Does the tribunal hold hearings at times which may be more convenient to the parties (eg. in the evenings and/or on weekends)?	0	1	2	3	4	5					
	Never		Sometimes			Always					
41. Do people with disabilities or elderly people have easy access to the tribunal?	0	1	2	3	4	5					
	Never		Sometimes			Always					
42. Are the waiting and hearing rooms properly equipped and of a reasonable standard?	0	5									
	No	Yes									
43. Are there rooms available where lawyers and other representatives can meet with their clients?	0	5									
	No	Yes									
44. Do tribunal members and other staff have sufficient time and training to provide parties with an appropriate level of assistance?	0	1	2	3	4	5					
	Never		Sometimes			Always					
45. Is appropriate advice provided by members to the participants in the proceedings, while still maintaining the impartiality and fairness of the tribunal?	0	1	2	3	4	5					
	Never		Sometimes			Always					
46. Are the participants in proceedings, and the public, treated with courtesy and respect?	0	1	2	3	4	5					
	Never		Sometimes			Always					
47. How do you rate the tribunal's overall accessibility to users and the public?	0	1	2	3	4	5	6	7	8	9	10
	Very poor										Excellent

Tribunal members and staff are central to achieving tribunal excellence. The expectations of all members and staff must be clearly communicated and understood.

## 5. Professionalism and Integrity

Competency standards and associated performance benchmarks are one means of ensuring that members are aware of what is expected of them.

Key competencies together with performance indicators should be developed for all members. Such competencies include:

- knowledge and technical skills
- communication (including cultural competency and working with interpreters)
- decision making
- professionalism and integrity
- efficiency
- leadership and management

A competency framework provides fair and transparent criteria to facilitate the appraisal of tribunal members. It can also facilitate a competency based approach to training to ensure that an individual's ongoing professional development needs are met. These initiatives can be supported by a Code of Conduct for Members. Similar initiatives should be developed and implemented for tribunal staff.

An appropriately resourced and strategically focused professional development program is a prerequisite for the delivery of the following key outcomes:

- **improved access to justice:** to better meet the needs of all parties
- **improved effectiveness:** by more efficient and consistent decision making
- **enhanced flexibility and efficiency:** by ensuring that members have the skills to sit in a range of different jurisdictions within the tribunal.

Member appraisal provides important feedback to members about their performance and in particular about the manner in



which they conduct hearings. Appraisal can also provide an opportunity to reinforce the Code of Conduct and the need to treat all parties fairly and respectfully.

Appraisal also provides a means of informing a member about any underperformance in meeting key competencies so that any issues can be addressed through further professional development.

**Professionalism and integrity measures****Rating**

48. Is there a competency framework for tribunal members?	<b>0</b>	<b>5</b>									
	No	Yes									
49. Does the tribunal have a strategic approach to professional development, aligned to key competencies?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	No	Partially				Yes					
50. Is there a Code of Conduct for tribunal members?	<b>0</b>	<b>5</b>									
	No	Yes									
51. Is there a formal appraisal system for members?	<b>0</b>	<b>5</b>									
	No	Yes									
52. Are the number of successful challenges to tribunal decisions recorded and published?	<b>0</b>	<b>5</b>									
	No	Yes									
53. Is there an internal process for discussing decisions that have been overturned on appeal?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	No	Partially				Yes					
54. Do tribunal members practice a form of peer review (discussion of cases between colleagues)?	<b>0</b>	<b>5</b>									
	No	Yes									
55. Are tribunal members taught ADR techniques (such as mediation)?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	Never	Sometimes				Always					
56. Are there specific methods used to promote legal certainty, for example is there a system of binding internal jurisprudence or does the organisation hold regular meetings to discuss relevant jurisprudence?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>					
	No	Partially				Yes					
<b>57. How do you rate the tribunal's overall professionalism and integrity?</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
	Very poor —————> Excellent										

## 6. Accountability

Tribunals serve the public through the provision of accessible, fair and efficient dispute resolution services. In delivering that service they are accountable to the public. An effective complaints mechanism is an important means of ensuring that

the public's expectations of members and staff are being met. Regular stakeholder/community engagement and reporting tribunal performance are also part of ensuring that the tribunal is accountable to the public.

### Accountability measures

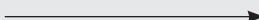
### Rating

58. Does the tribunal provide an effective, transparent complaints mechanism?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Never		Sometimes			Always
59. Is there regular reporting of tribunal performance to stakeholders?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Never		Sometimes			Always
60. Does the tribunal undergo regular community/stakeholder engagement?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Never		Sometimes			Always
61. Are tribunal decisions publicised?	<b>0</b>	<b>5</b>				
	No	Yes				
62. Does the tribunal have "open days" to provide an opportunity for the community to visit the tribunal?	<b>0</b>	<b>5</b>				
	No	Yes				
63. Does the tribunal have a customer service charter?	<b>0</b>	<b>5</b>				
	No	Yes				
64. Does the tribunal publicly report on its performance on a regular basis?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Never		Sometimes			Always

Accountability measures (cont'd)

Rating

65. Are tribunal decisions subject to appeal or judicial review?	0	1	2	3	4	5
	Weak		Intermediate			Stronger
<b>Weak:</b>	There is provision for review on the merits by an appeal division constituted with judicial officers, or by a higher tribunal whose decisions are subject to judicial review.					
<b>Intermediate:</b>	Judicial review is restricted by a privative clause and there is no provision for appeal to a higher tribunal with judicial officers.					
<b>Stronger:</b>	There is provision for judicial review of tribunal decisions by a superior court, OR an appeal lies to a court on a question of law.					

66. How do you rate the tribunal's overall accountability?	0	1	2	3	4	5	6	7	8	9	10
	Very poor  Excellent										



**Tribunals should provide an efficient dispute resolution service in the sense that the tribunal resolves disputes in an affordable and timely way.**

## 7. Efficiency

Tribunals should provide an efficient dispute resolution service in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way. The costs incurred by the parties and the tribunal resources allocated to a proceeding must be reasonable and proportionate to the complexity and importance of the issues and the amount in dispute. Efficiency is also about the fair distribution of workload across tribunal members and staff.

Timeliness reflects a balance between the time required to properly obtain, present and weigh the evidence, law and arguments, and unreasonable delay due to inefficient processes and insufficient resources.

Access to Alternative Dispute Resolution (ADR) can provide a quicker, more flexible and cost effective alternative to traditional litigation. ADR is an umbrella term for processes, other than tribunal determination, in which an impartial person assists the parties to resolve the issues between them. ADR encompasses processes such as mediation, compulsory conferences, conciliation and facilitation. By working together parties can resolve their dispute and agree to an settlement that makes sense to them and without incurring significant transaction costs.

### Efficiency measures

### Rating

67. Have appropriate performance benchmarks been established for case disposition (by case type)?	0	1	2	3	4	5
	No		Partially			Yes
68. Has a performance benchmark been established for the delivery of reserved decisions?	0	5				
	No	Yes				
69. Have standard directions been implemented, where appropriate, to minimise transaction costs?	0	5				
	No	Yes				
70. Does the tribunal provide timely and appropriate access to ADR?	0	1	2	3	4	5
	Never		Sometimes			Always

**Efficiency measures (cont'd)****Rating**

71. Is there a system to monitor the effective utilisation of each member?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	No		Partially			Yes
72. Is there the flexibility to assign members to particular areas of the tribunal's jurisdiction in order to meet changes in demand?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	No		Partially			Yes
73. Is there a system for measuring whether tribunal proceedings start in time?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	No		Partially			Yes
74. Have the parties the opportunity to request priority treatment of the case if there are legitimate reasons to do so?	<b>0</b>	<b>5</b>				
	No	Yes				
75. Are measures taken to speed up delayed cases and to reduce the backlog?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Never		Sometimes			Always
76. Does the leadership group periodically evaluate tribunal performance?	<b>0</b>	<b>5</b>				
	No	Yes				
77. Is it possible to determine the total number of incoming, pending and decided cases in a given period?	<b>0</b>	<b>5</b>				
	No	Yes				

<b>78. How do you rate the tribunal's overall efficiency?</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
	Very poor										Excellent

## Client needs and satisfaction measures

## Rating

79. Has the tribunal established user groups that meet regularly and provide constructive feedback in respect of each jurisdictional area?	0	1	2	3	4	5
	No		Partially			Yes
80. Does the tribunal survey parties in order to measure user satisfaction?	0	5				
	No	Yes				
81. Does the tribunal regularly meet with key stakeholders?	0	1	2	3	4	5
	Never		Sometimes			Always

**82. How do you rate the tribunal's client satisfaction?**

0 1 2 3 4 5 6 7 8 9 10

Very poor —————> Excellent

## D. Assessing Tribunal Excellence

The first step towards tribunal excellence is to assess how the tribunal is currently performing.

The *Framework* is an assessment tool which allows a tribunal to assess its performance measured against the Eight Areas of Tribunal Excellence.

Undertaking the Assessment Questionnaire allows the tribunal to identify those areas requiring attention and to set a benchmark against which the tribunal can measure its subsequent performance.

Tribunals should actively seek the views of key stakeholders (including tribunal members and staff) and the community in evaluating aspects of tribunal services and in the process of identifying areas of improvement.

No tribunal is perfect, there is always scope for continuous improvement. The *Framework* is meant to aid tribunals in finding the appropriate means for meeting their goals. A self initiated and transparent tribunal review may also lend credibility to the tribunal's request for appropriate funds to update facilities or to engage additional members

or to invest in new technology. In all cases, the focus of the *Framework* is on improving tribunal services. A process of self examination that is transparent and allows the tribunal to propose improvements based on objective information will lend credibility to that goal, including legitimate requests for additional resources.

The Self Assessment Questionnaire is a necessary first step to developing a strategic plan to close the gap between 'what is' and 'what can be'. It will assist in determining which issues can and must be addressed in the short term and those that necessitate intermediate or long term planning.

The total weighted score provides an overall indication of the tribunal's performance based on a maximum score of 1,000 points. The weighting formula on page 24 is indicative only. The weighting assigned by a particular tribunal or within a particular country may vary depending on the historical context and particular priorities within a jurisdiction.

The total weight score can be compared with the Banding Table which provides an objective benchmark against which the tribunal may measure its performance.

Tribunals may also find this numerical scoring system particularly useful in measuring relative progress over time.

## Indicative Weights

The detailed weights for the eight areas are as follows:

Areas	Raw score	Weighting multiplier	Weighted score
<b>1. Independence</b>	/ 70	multiply by 140/70	/ 140
<b>2. Tribunal Leadership and Management</b>	/ 40	multiply by 140/40	/ 140
<b>3. Fair Treatment</b>	/ 45	multiply by 140/45	/ 140
<b>4. Accessibility</b>	/ 100	multiply by 140/100	/ 140
<b>5. Professionalism and Integrity</b>	/ 55	multiply by 140/55	/ 140
<b>6. Accountability</b>	/ 55	multiply by 100/55	/ 100
<b>7. Efficiency</b>	/ 65	multiply by 100/65	/ 100
<b>8. Client Needs and Satisfaction</b>	/ 25	multiply by 4	/ 100
<b>TOTAL SCORE:</b>	<b>/ 460</b>	<b>multiply by 1000/460</b>	<b>/ 1000</b>

NOTE: The weighting assigned by a particular tribunal or within a particular country may vary depending on the historical context and particular priorities within a jurisdiction.

## Banding Table

Band	Score	Description
1	0	<p>There is no approach or strategy in respect of the areas of tribunal excellence.</p> <p>There are no results, or results show no improvement trends, or have not met targets.</p>
2	1-199	<p>There is some approach and strategy in respect of the areas of tribunal excellence but it is reactive and not systematic.</p> <p>Poor results; or good performance and/or improvement trends are only present in a few key indicators; or results are not reported for most key indicators.</p>
3	200-399	<p>The direction for a strategic-based approach to the areas of tribunal excellence is set and has been implemented in some key areas of the organisation.</p> <p>Good performance and/or improvement trends in some key indicators.</p>
4	400-599	<p>A sound effective strategic approach is in place with evidence of implementation in most key areas of the organisation.</p> <p>Good performance levels and/or improvement trends in most key indicators; or there are favourable comparisons and/or benchmarks in some areas; or results are reported for most key indicators.</p>
5	600-799	<p>A proven and well-defined strategic approach with evidence of refinement through learning and improvement which is well integrated with organisational needs.</p> <p>The tribunal's strategic direction has been implemented in all key areas of the organisation and is practiced consistently by all levels.</p> <p>Current performance levels are good to excellent in most key indicators and/or improvement trends are sustained in most areas; or there are favourable comparisons or benchmarks in most areas; or results are reported for all key indicators.</p>
6	800-1000	<p>An exceptionally well defined, innovative and strategic approach, which is fully integrated with organisational needs and implemented consistently in all areas.</p> <p>Performance levels are excellent in most key indicators and/or there are exceptional improvement trends in most areas; or there are exceptional comparisons and benchmarks in most areas; or results are reported for all indicators.</p>

## E. Identifying Areas for Improvement

Having completed the Assessment Questionnaire, the tribunal will have identified the areas where improvement is required.

Some tribunals may choose to concentrate their efforts in discrete areas while others may proceed with a full tribunal review and reform. In either case, prioritising the areas for improvement is highly recommended. This will allow the reform process to focus on specific performance areas over a period of time.

It is essential for the leadership of a tribunal to ensure that the process for planning for improvement provides ample opportunity for the tribunal's members, staff and stakeholders to be consulted and involved.

The assessment will have identified a range of issues for the tribunal to address in developing an improvement or action plan, such as:

---

**Does the tribunal have a vision statement and/or a mission statement expressing the tribunal's fundamental values and purposes?** If not, this is the place to start because implementation of the *Framework* depends upon the tribunal having articulated values.

---

**What are the deficiencies in the tribunal's management, operations, and services and why do they need to be improved?**

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**What issues can and must be addressed quickly and in the short term? What issues call for more intermediate or long-term planning?**

---

**What changes in procedures or practices does the tribunal plan to institute?**

---

**Whose support and cooperation is most relevant in making these potential changes** (eg. key stakeholders, tribunal members and staff, government)?

---

**What resources will be needed in order to successfully institute those changes** (eg. funding for additional personnel or equipment; cooperation of legal practitioners who practice in the tribunal; cooperation of tribunal members effective communication with other components of the judicial system)? How will the tribunal obtain those resources? What sources of support can the tribunal draw on?

---

**What resistance to the plan or obstacles may be encountered?** How might this resistance or these obstacles best be overcome?

---

**What is the time schedule for instituting the changes?**

---

**How will the tribunal evaluate the success of the changes?** What information will the tribunal need for this evaluation? Who will collect the information and how will it be analysed? Will the assistance of an outside consultant be needed to develop measurement tools and analyse results?

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## F. References

Richard Moorhead, Mark Sefton and Lesley Scanlan, *Just satisfaction? What drives public and participant satisfaction with courts and tribunals* (2008) Ministry of Justice Research Series 5/08 March 2008, Cardiff Law School, Cardiff University <[www.justice.gov.uk/publications/research/htm](http://www.justice.gov.uk/publications/research/htm)> at 4 April 2011.

T R Tyler, *Why People Obey the Law* (Princeton University Press, 2006).

T R Tyler and Y J Huo, *Trust in the Law: Encouraging Public Cooperation with the Police and Courts* (New York: Russell Sage Foundation, 2002).

M Cascardi, N G Poythress and A Hall, 'Procedural Justice in the context of Civil Commitment: an analogue study' (2000) 18 *Behavioral Sciences & the Law* 731-740.

Australian Institute of Judicial Administration, *Litigants in Person Management Plans: Issues for Courts and Tribunals* (Australian Institute of Judicial Administration, 2001) 13.

Stephen Parker, *Courts and the Public* (Australian Institute of Judicial Administration 1998).



# G. Tribunal Excellence Questionnaire

## 1. Independence

Independence measures	Rating						Score
1. Is the tribunal established by statute?	0	5					
	No	Yes					
2. Funding—budget allocation and control	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		
3. Resources—facilities and services	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		
4. Management—President and Staff	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		
5. Process for appointment	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		
6. Reappointment process	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		
7. Temporary or acting appointment	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		
8. Appointment of the Registrar or CEO	0	1	2	3	4	5	
	Weak		Intermediate		Stronger		

Independence measures (cont'd)	Rating	Score
9. Tenure—term and conditions	<div>012345</div> <div>WeakIntermediateStronger</div>	
10. Tenure—removal provisions	<div>012345</div> <div>WeakIntermediateStronger</div>	
11. Immunities and protections	<div>012345</div> <div>WeakIntermediateStronger</div>	
12. Efficacy of power—Ministerial policy directions and Executive over-ruling of the tribunal	<div>012345</div> <div>WeakIntermediateStronger</div>	
13. Overall perception of tribunal independence	<div>012345678910</div> <div>Weak —————&gt; Stronger</div>	
<b>TOTAL SCORE FOR INDEPENDENCE:</b>		<b>out of 65</b>

## 2. Tribunal Leadership and Effective Management

Leadership measures	Rating						Score					
14. Has a vision for the tribunal been developed and translated into concrete, measurable objectives and priorities?	0	1	2	3	4	5						
	No		Partially			Yes						
15. Does the tribunal manage change, proactively and efficiently, to adapt to meet future demands?	0	1	2	3	4	5						
	Never		Sometimes			Always						
16. Is wide publicity given to the vision among stakeholders and the community?	0	1	2	3	4	5						
	No		Partially			Yes						
17. Is there a defined leadership group within the tribunal which meets on a regular basis?	0	1	2	3	4	5						
	No		Partially			Yes						
18. Does the leadership group promote a culture that stimulates and inspires innovation and continuous improvement?	0	1	2	3	4	5						
	Never		Sometimes			Always						
19. Does the tribunal regularly publish its performance results and provide information on its service delivery to the public?	0	1	2	3	4	5						
	Never		Sometimes			Always						
20. Overall perception of tribunal leadership and management	0	1	2	3	4	5	6	7	8	9	10	
	Very poor —————> Excellent											

**TOTAL SCORE FOR LEADERSHIP:** out of 40

### 3. Fair Treatment

Fair treatment measures	Rating						Score					
21. Does the tribunal promote the obligation to provide a fair hearing?	0	1	2	3	4	5						
	Never		Sometimes			Always						
22. Does the tribunal provide a free interpreter service in all community languages?	0	1	2	3	4	5						
	Never		Sometimes			Always						
23. Does the tribunal promote cultural competency to tribunal members and staff?	0	1	2	3	4	5						
	Never		Sometimes			Always						
24. Are tribunal proceedings (in principle) open to the public?	0	5										
	No	Yes										
25. Are all hearings recorded?	0	5										
	No	Yes										
26. Are parties (and the public) able to obtain copies of recorded hearings (or transcripts) at a reasonable cost?	0	1	2	3	4	5						
	Never		Sometimes			Always						
27. Are tribunal decisions subject to a fair and efficient appeal mechanism?	0	1	2	3	4	5						
	No		Partially			Yes						
28. How do you rate the tribunal's overall capacity to deliver fair treatment?	0	1	2	3	4	5	6	7	8	9	10	
	Very poor —————> Excellent											

**TOTAL SCORE FOR FAIR TREATMENT:**

**out of 45**

## 4. Accessibility

Accessibility measures	Rating						Score
29. Does the tribunal have a litigant in person management plan?	0 No	5 Yes					
30. Are the tribunal's fees affordable and proportionate to the nature of the proceeding?	0 Never	1	2	3	4	5 Always	
31. Does the tribunal offer fee relief/waiver based on financial circumstances?	0 No	5 Yes					
32. Is there an on-line lodgement facility for tribunal applications?	0 No	1	2	3	4	5 Yes	
33. Does the tribunal provide access to telephone and videoconferencing facilities to save parties travel time and costs?	0 No	5 Yes					
34. Does the tribunal publish user guides in its main areas of jurisdiction?	0 Never	1	2	3	4	5 Always	
35. Does the tribunal have a functional and easy to access website?	0 No	5 Yes					
36. Is there access to pro-bono legal services and are parties made aware of these services?	0 Never	1	2	3	4	5 Always	
37. Are tribunal staff trained to explain tribunal processes and other practical information to tribunal visitors and users?	0 No	5 Yes					
38. Does the tribunal have an information desk or reception staff to assist visitors?	0 No	5 Yes					
39. Is there a provision to hold hearings in other locations away from the main location of the tribunal to reduce party travel time and transaction costs?	0 No	5 Yes					

Accessibility measures (cont'd)	Rating	Score
40. Does the tribunal hold hearings at times which may be more convenient to the parties (eg. in the evenings and/or on weekends)?	<div>012345</div> <div>Never Sometimes Always</div>	
41. Do people with disabilities or elderly people have easy access to the tribunal?	<div>012345</div> <div>Never Sometimes Always</div>	
42. Are the waiting and hearing rooms properly equipped and of a reasonable standard?	<div>05</div> <div>No Yes</div>	
43. Are there rooms available where lawyers and other representatives can meet with their clients?	<div>05</div> <div>No Yes</div>	
44. Do tribunal members and other staff have sufficient time and training to provide parties with an appropriate level of assistance?	<div>012345</div> <div>Never Sometimes Always</div>	
45. Is appropriate advice provided by members to the participants in the proceedings, while still maintaining the impartiality and fairness of the tribunal?	<div>012345</div> <div>Never Sometimes Always</div>	
46. Are the participants in proceedings, and the public, treated with courtesy and respect?	<div>012345</div> <div>Never Sometimes Always</div>	
47. How do you rate the tribunal's overall accessibility to users and the public?	<div>012345678910</div> <div>Very poor —————&gt; Excellent</div>	

**TOTAL SCORE FOR ACCESSIBILITY:**

**out of 100**

## 5. Professionalism and Integrity

Professionalism and integrity measures	Rating										Score	
48. Is there a competency framework for tribunal members?	0	5										
	No	Yes										
49. Does the tribunal have a strategic approach to professional development, aligned to key competencies?	0	1	2	3	4	5						
	No	Partially				Yes						
50. Is there a Code of Conduct for tribunal members?	0	5										
	No	Yes										
51. Is there a formal appraisal system for members?	0	5										
	No	Yes										
52. Are the number of successful challenges to tribunal decisions recorded and published?	0	5										
	No	Yes										
53. Is there an internal process for discussing decisions that have been overturned on appeal?	0	1	2	3	4	5						
	No	Partially				Yes						
54. Do tribunal members practice a form of peer review (discussion of cases between colleagues)?	0	5										
	No	Yes										
55. Are tribunal members taught ADR techniques (such as mediation)?	0	1	2	3	4	5						
	Never	Sometimes				Always						
56. Are there specific methods used to promote legal certainty, for example is there a system of binding internal jurisprudence or does the organisation hold regular meetings to discuss relevant jurisprudence?	0	1	2	3	4	5						
	No	Partially				Yes						
57. How do you rate the tribunal's overall professionalism and integrity?	0	1	2	3	4	5	6	7	8	9	10	
	Very poor —————> Excellent											

**TOTAL SCORE FOR PROFESSIONALISM AND INTEGRITY:**
**out of 55**

## 6. Accountability

Accountability measures	Rating						Score					
58. Does the tribunal provide an effective, transparent complaints mechanism?	0	1	2	3	4	5						
	Never		Sometimes		Always							
59. Is there regular reporting of tribunal performance to stakeholders?	0	1	2	3	4	5						
	Never		Sometimes		Always							
60. Does the tribunal undergo regular community/ stakeholder engagement?	0	1	2	3	4	5						
	Never		Sometimes		Always							
61. Are tribunal decisions publicised?	0	5										
	No	Yes										
62. Does the tribunal have “open days” to provide an opportunity for the community to visit the tribunal?	0	5										
	No	Yes										
63. Does the tribunal have a customer service charter?	0	5										
	No	Yes										
64. Does the tribunal publicly report on its performance on a regular basis?	0	1	2	3	4	5						
	Never		Sometimes		Always							
65. Are tribunal decisions subject to appeal or judicial review?	0	1	2	3	4	5						
	Weak		Intermediate		Stronger							
66. How do you rate the tribunal's overall accountability?	0	1	2	3	4	5	6	7	8	9	10	
	Very poor —————→ Excellent											

**TOTAL SCORE FOR ACCOUNTABILITY:** out of 50



## 7. Efficiency

Efficiency measures	Rating						Score
67. Have appropriate performance benchmarks been established for case disposition (by case type)?	0	1	2	3	4	5	
	No			Partially		Yes	
68. Has a performance benchmark been established for the delivery of reserved decisions?	0	5					
	No	Yes					
69. Have standard directions been implemented, where appropriate, to minimise transaction costs?	0	5					
	No	Yes					
70. Does the tribunal provide timely and appropriate access to ADR?	0	1	2	3	4	5	
	Never			Sometimes		Always	
71. Is there a system to monitor the effective utilisation of each member?	0	1	2	3	4	5	
	No			Partially		Yes	
72. Is there the flexibility to assign members to particular areas of the tribunal's jurisdiction in order to meet changes in demand?	0	1	2	3	4	5	
	No			Partially		Yes	
73. Is there a system for measuring whether tribunal proceedings start in time?	0	1	2	3	4	5	
	No			Partially		Yes	
74. Have the parties the opportunity to request priority treatment of the case if there are legitimate reasons to do so?	0	5					
	No	Yes					
75. Are measures taken to speed up delayed cases and to reduce the backlog?	0	1	2	3	4	5	
	Never			Sometimes		Always	
76. Does the leadership group periodically evaluate tribunal performance?	0	5					
	No	Yes					

### Efficiency measures (cont'd)

### Rating

### Score

77. Is it possible to determine the total number of incoming, pending and decided cases in a given period?

0

5

No

Yes

78. How do you rate the tribunal's overall efficiency?

0

1

2

3

4

5

6

7

8

9

10

Very poor

—————> Excellent

**TOTAL SCORE FOR EFFICIENCY:**

**out of 65**

## 8. Client Needs and Satisfaction

Client needs and satisfaction measures	Rating	Score
79. Has the tribunal established user groups that meet regularly and provide constructive feedback in respect of each jurisdictional area?	<div>0 1 2 3 4 5</div> <div>No Partially Yes</div>	
80. Does the tribunal survey parties in order to measure user satisfaction?	<div>0 5</div> <div>No Yes</div>	
81. Does the tribunal regularly meet with key stakeholders?	<div>0 1 2 3 4 5</div> <div>Never Sometimes Always</div>	
82. How do you rate the tribunal's client satisfaction?	<div>0 1 2 3 4 5 6 7 8 9 10</div> <div>Very poor —————&gt; Excellent</div>	

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**TOTAL SCORE FOR CLIENT NEEDS AND SATISFACTION:** **out of 25**

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## Weights

The detailed weights for the eight areas are as follows:

Areas	Raw score	Weighting multiplier	Weighted score
1. Independence	/ 65	multiply by 140/65	/ 140
2. Tribunal Leadership and Management	/ 40	multiply by 140/40	/ 140
3. Fair Treatment	/ 45	multiply by 140/45	/ 140
4. Accessibility	/ 100	multiply by 140/100	/ 140
5. Professionalism and Integrity	/ 55	multiply by 140/55	/ 140
6. Accountability	/ 50	multiply by 2	/ 100
7. Efficiency	/ 65	multiply by 100/65	/ 100
8. Client Needs and Satisfaction	/ 25	multiply by 4	/ 100
<b>TOTAL SCORE:</b>	<b>/ 450</b>	<b>multiply by 1000/450</b>	<b>/ 1000</b>

## Banding Table

Band	Score	Description
1	0	<p>There is no approach or strategy in respect of the areas of tribunal excellence.</p> <p>There are no results, or results show no improvement trends, or have not met targets.</p>
2	1-199	<p>There is some approach and strategy in respect of the areas of tribunal excellence but it is reactive and not systematic.</p> <p>Poor results; or good performance and/or improvement trends are only present in a few key indicators; or results are not reported for most key indicators.</p>
3	200-399	<p>The direction for a strategic-based approach to the areas of tribunal excellence is set and has been implemented in some key areas of the organisation.</p> <p>Good performance and/or improvement trends in some key indicators.</p>
4	400-599	<p>A sound effective strategic approach is in place with evidence of implementation in most key areas of the organisation.</p> <p>Good performance levels and/or improvement trends in most key indicators; or there are favourable comparisons and/or benchmarks in some areas; or results are reported for most key indicators.</p>
5	600-799	<p>A proven and well-defined strategic approach with evidence of refinement through learning and improvement which is well integrated with organisational needs.</p> <p>The tribunal's strategic direction has been implemented in all key areas of the organisation and is practiced consistently by all levels.</p> <p>Current performance levels are good to excellent in most key indicators and/or improvement trends are sustained in most areas; or there are favourable comparisons or benchmarks in most areas; or results are reported for all key indicators.</p>
6	800-1000	<p>An exceptionally well defined, innovative and strategic approach, which is fully integrated with organisational needs and implemented consistently in all areas.</p> <p>Performance levels are excellent in most key indicators and/or there are exceptional improvement trends in most areas; or there are exceptional comparisons and benchmarks in most areas; or results are reported for all indicators.</p>



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